

House Commerce
Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2063*

House Bill No. 2806

by deleting in its entirety all the language following the caption, and by substituting instead the following language:

WHEREAS, it has come to the attention of the general assembly that the gross premium calculations do not include all fees charged by property or casualty agents; and

WHEREAS, no Tennessee statute or law explicitly refers to invoicing fees separately for services in connection with the sale of insurance; and

WHEREAS, every insurer of personal risk insurance must file all of its rates, supplementary rate information, supporting information, policy forms and endorsements with the commissioner of commerce and insurance; and

WHEREAS, rate filings are open to public inspection at any reasonable time after they are filed; and

WHEREAS, statutory law does not define which charges are to be disclosed and thus be subject to review as rates; and

WHEREAS, when rates are filed, the commissioner reviews them to ensure that such rates are not excessive, inadequate or unfairly discriminatory, that they are collected on a uniform basis among all insureds and that the filing provides complete and accurate information to the public at large and to insureds; and

WHEREAS, if some fees are reported separately and are not included in the rate filing or total cost of gross premiums charged, a filing by the insurance company does not accurately

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reflect the actual costs of the policy to the insureds and the public does not, therefore, receive accurate information regarding the amount they must actually pay for such coverage; and

WHEREAS, insurance statutes contemplate that an agent will look to the insurance company, or to fellow agents, rather than to the insured, for compensation for services in connection with the sale of insurance; and

WHEREAS, if a fee is invoiced separately, all of the safeguards of the insurance statutory scheme are circumvented, including the proper payment of the gross premiums tax which has been imposed by the general assembly to generate revenue for the operation of the department of commerce and insurance which protects the consumer, in general; and

WHEREAS, since the Tennessee Constitution requires that property be taxed in an equal and uniform manner, it is only appropriate that the gross premium tax should also be applied in an equal and uniform manner based on taxable compensation notwithstanding its designation as commission or a fee; now therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-6-149, is amended by adding the following language as a new, appropriately designated subsection:

(a)(1) On and after the effective date of this act, a duly licensed property or casualty agent may charge a fee to the insured in addition to the premium properly charged for a policy or contract, provided the insurer has filed with the department as part of its rate and policy filings provisions permitting such fee and establishing how such

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fee will apply; and further provided that such fee is separately disclosed on the invoice or billing statement mailed or delivered to the insured. Any agent who receives a fee in accordance with this subsection shall file an annual report on or before May 1 each year on a form adopted by the commissioner pursuant to rule. The report shall state the total amount of fees received in the preceding calendar year and shall be accompanied by payment of the premium tax that would have been payable if the fee had been received by the insurer as premium.

(2) This subsection is applicable only to commercial risk insurance as that term is defined in Tennessee Code Annotated, Section 56-7-1802, when the account premium, on an annualized basis is one hundred thousand dollars (\$100,000.) or greater.

(3) On or before July 1, 1998, the department shall promulgate rules and regulations in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5, to implement the provisions of this act in a uniform and equitable manner.

SECTION 2. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 1998, the public welfare requiring it.

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